

frontier

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May 29, 1998

BY OVERNIGHT MAIL

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: CC Docket No. 98-56

Dear Ms. Salas:

Enclosed for filing please find an original plus nine (9) copies of the Comments of Frontier Corporation in the above-docketed proceeding.

To acknowledge receipt, please affix an appropriate notation to the copy of this letter provided herewith for that purpose and return same to the undersigned in the enclosed, self-addressed envelope.

Very truly yours,



Michael J. Shortley, III

cc: International Transcription Service

Ms. Janice Myles

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Performance Measurements and)	CC Docket No. 98-56
Reporting Requirements for)	RM-9101
Operations Support Systems,)	
Interconnection, and Operator)	
Services and Directory Assistance)	

**COMMENTS OF
FRONTIER CORPORATION**

Introduction

Frontier Corporation ("Frontier") submits these comments in response to the Commission's Notice initiating this proceeding.¹ In this proceeding, the Commission is seeking comment on its proposal to adopt numerous model performance measurements and reporting requirements that would apply to incumbent local exchange carriers.² Although Frontier understands that the Commission does not intend "to use binding rules in the first instance,"³ Frontier agrees with Commissioner Furchtgott-Ross that the Commission is embarking on an unwise course.⁴

¹ *Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection and Operator Services and Directory Assistance*, CC Dkt. 98-56, Notice of Proposed Rulemaking, FCC 98-72 (April 17, 1998) ("Notice").

² *Id.*, ¶ 23.

³ *Id.*, ¶ 24.

⁴ *Id.*, Dissenting Statement of Commissioner Furchtgott-Ross ("Furchtgott-Ross Dissent").

As the Commission requests,⁵ Frontier will not address the jurisdictional issues that the Notice raises.⁶ In those comments, Frontier also does not discuss in detail the specific performance measurements or reporting requirements that the Commission proposes. Its objections are more fundamental. As Commissioner Furchtgott-Ross observes, "the NPRM is excessively regulatory."⁷

Argument

I. NATIONAL PERFORMANCE MEASUREMENTS AND REPORTING REQUIREMENTS ARE UNNECESSARY

The NPRM assumes that performance measurements and reporting requirements are desirable. That assumption is questionable at best, from both an incumbent local exchange carrier ("ILEC") and competitive local exchange carrier ("CLEC") perspective.⁸

From an ILEC perspective, service territories and carriers are different and performance measurements cannot capture those differences. Nor does it necessarily make sense to do so. Different CLECs will choose to target different types of customers, provide service to different areas and utilize different ILEC network capabilities. A uniform set of performance measurements cannot meaningfully capture these differences.

⁵ Notice, ¶ 25.

⁶ Frontier refrains from explicitly addressing these issues in the expectation that the Commission will not issue final, binding rules. Should the Commission decide to do so, Frontier reserves the right to address these issues.

⁷ Furchtgott-Ross Dissent at 3.

⁸ Frontier serves approximately one million ILEC access lines in 12 states and over 100,000 CLEC access lines in over 25 states.

From a CLEC perspective, Frontier also views regulatorily-imposed measurement and reporting requirements as unnecessary. The operational needs of Frontier's CLEC operations do not coincide with those of other CLECs. Frontier would rather have the flexibility to address these needs through section 252 negotiations and arbitrations and through informal means,⁹ than to rely upon externally-imposed rules. Moreover, should Frontier's CLEC operations believe that they are being unfairly treated by any affected ILEC, it believes that -- as a last resort -- it could invoke the appropriate complaint process.

At the very least, the Commission should question the premise of the Notice that national performance measurements and associated reporting requirements are either necessary or desirable.¹⁰

II. THE PROPOSED MODEL PERFORMANCE MEASUREMENTS AND REPORTING REQUIREMENTS ARE BOTH UNDULY BURDENSOME AND COUNTERPRODUCTIVE.

Commissioner Furchtgott-Ross aptly observes:

There are a total of 30 measures proposed, page upon regulatory page of measures. Is each one of these truly necessary? Do these endless pages of measures add glory or insult to the deregulatory structure of the Telecommunications Act of 1996? Surely the proposed list is a broad-ranging shopping list of possible ideas rather than a central core of measures.

* * * *

⁹ Frontier's CLEC experience to date -- although not totally without friction with the affected ILECs -- suggests that it is far preferable to attempt to resolve matters informally. Commission -- federal or state -- mandated rules could serve to hinder this process.

¹⁰ In this respect, as Commissioner Furchtgott-Ross observes, a White Paper is far preferable to what the Commission is proposing. See Furchtgott-Ross Dissent at 6-7.

The NPRM is tedious with detail. Is it really necessary to measure more than nine aspects of average response time for the pre-ordering phase alone....And all this...information only satisfies one *sub-category of the Ordering and Provisioning Category*. I fear that the proposed 12 page list of measurements and reporting requirements is too costly and far too long to be useful for efficient regulation.

* * * *

Even if the list of measures were small and concise, their mere compilation begs the question: For what purpose will they be used? There are but two possible answers: standard-setting regulation and litigation. It is not clear which of the two answers would harm competition more, but it is clear that each will have a corrosive effect.¹¹

As these observations make clear, adoption of the Commission's proposals would be extremely burdensome. Indeed, Frontier estimates that the costs to its ILEC operations of complying with the Commission's proposals as written would be in excess of \$5 million per year.

Frontier's CLECs share also share this perspective.¹² There are only limited resources available to address particular issues. Resources devoted to monitoring performance measurements and compiling reports are, quite simply, resources not available to address issues affecting ongoing operations. Those ILEC resources would be far better deployed solving day-to-day concerns and issues, than they would be addressing regulatory requirements.

¹¹ *Id* at 3-4 (emphasis added).

¹² Frontier does not disagree with the Commission's observations that the local exchange market is far from workably competitive and that regulation should attempt to replicate competitive conditions. See Notice ¶ 8. Nonetheless, the Commission needs to temper theory with commercial reality.

Frontier's CLECs have two related, but well-founded, concerns. *First*, reporting requirements that may initially be applied to ILECs are ultimately applied to CLECs -- in the name of "parity".¹³ That response requires CLEC personnel to divert attention from customer service to regulatory service. That, plainly, is not a desirable outcome.

Second, standards or "measurements" tend to enforce unnecessary rigidity. As the debate over the Commission's local competition series of orders underscores, ILECs as a whole will do no more than what is explicitly required, as those requirements are so interpreted. This rigidity destroys the flexibility so necessary for ILECs to attempt to accommodate the differing requirements of different CLECs. This, in Frontier's view, is not a desirable outcome.¹⁴

¹³ Whether the purpose is to monitor competition, assess consumer satisfaction or the like, performance standards and reporting requirements are routinely imposed on CLECs, particularly at the state level. With respect to CLEC operations, these make no sense. No CLEC possesses any degree of market power and, absent such a position, has no ability to dictate what consumers must accept.

¹⁴ Frontier recognizes that the Commission initiated this proceeding in response to a NARUC request for "guidance" on this subject. Notice, ¶ 4. The best guidance that the Commission could impart upon the states is to leave well enough alone.

Conclusion

For the foregoing reasons, the Commission should take no action on the Notice and close this proceeding.

Respectfully submitted,



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